

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

January 7, 2020

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 2118

In Reply Refer to:

EPA Complaint No.: 04R-19-R3

Ms. Stephanie Grove
County Administrator
Jefferson County Commission
124 E. Washington Street
Charles Town, WV 25414

Re: Administrative Closure, EPA Complaint No. 04R-19-R3

Dear Administrator Grove:

This letter is to inform you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is administratively closing, as of the date of this letter, Complaint No. 04R-19-R3 as it relates to the Jefferson County Commission (hereinafter "JCC").

Complaint No. 04R-19-R3 was filed by the Rural Agricultural Defenders and two individuals on September 23, 2019. Pursuant to EPA's nondiscrimination regulation, ECRCO conducted a preliminary review of the administrative complaint to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

Based on a careful review of the available information at the time, ECRCO determined that the administrative complaint met the jurisdictional requirements stated above. Accordingly, on October 17, 2019, ECRCO accepted for investigation the following issues with respect to the JCC:

1. Whether the JCC's (and/or its component agencies, the County Clerk and the Office of Engineering) alleged failure to ensure the veracity of maps and other documentation

provided by Mountaineer Gas during the review process for Mountaineer's application for registration under the West Virginia Stormwater Construction General Permit (Registration #WVR311281 under General Permit #WV0116815) discriminated against African American descendants of those buried at the Boyd Carter Memorial Cemetery by allegedly disturbing graves on the Cemetery grounds; and

2. Whether the JCC has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to the JCC's services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether the JCC has a public participation policy and process that is consistent with Title VI and the other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.

However, during ECRCO's investigation of these issues, the JCC asserted it does not receive any federal financial assistance from the EPA, either directly or indirectly, and provided supporting documentation to this effect. ECRCO reviewed the information provided by the JCC, and also conducted an assessment of budget documentation from the West Virginia Department of Environmental Protection and the JCC's most recent budget proposals (2017-2020).

Based on ECRCO's review of this additional information, ECRCO was unable to identify any direct or indirect funding from EPA to the JCC, and therefore, was not able to establish that the JCC is a recipient of EPA financial assistance. As such, ECRCO does not have jurisdiction over the JCC and Complaint No. 04R-19-R3 is administratively closed as of the date of this letter.

If you have any questions, please feel free to contact me at 202-564-9649, by e-mail at dorka.lilian@epa.gov, or Jonathan Stein, Case Manager at 202-564-2088, by email at stein.jonathan@epa.gov or U.S. mail at U.S. EPA, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Angelia Talbert-Duarte
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